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THE NEW GERMAN CONSTITUTION

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To understand the real nature of the government which now, under its new constitution, is attempting to guide the German nation through the perils of reconstruction is indeed a baffling problem. We are as yet too close to the events which brought it into existence and clothed it with constitutional forms to attempt their evaluation or to determine their significance. The revolution was so unlike what we should have expected as necessary to shift the ultimate power in the state from a narrow military and landed oligarchy to the masses of the people, that a doubt forces itself upon us as to its genuineness. The war, with its shattering of national ideals, its appalling toll of life, the grinding misery which it imposed, and the insuperable financial bondage to which it condemned the nation for an indefinite future, might account for a thorough popular disillusionment which would sweep the nation into the current of democracy. But if this were the case, we would expect a general enthusiasm for the new government, an evident popular sense of the passing of the dark night of autocratic rule and a joy in the light of a new and happier day.

This is exactly what does not exist. There are three classes in Germany today. The first, who constitute only a small minority, are the nationalists and militarists who are bitterly opposed to the republic, and even now are agitating at every favorable opportunity for the restoration of the monarchy in its old form. The second class are likewise a comparatively small minority. They are the revolutionaries, the Spartacists with some of the Independent Socialists, who are just as strongly opposed to the government, using wherever possible the instruments of direct action to inaugurate the revolution which they

believe has not yet been achieved. The vast mass of the nation appear to be utterly indifferent with respect to forms of government. Any régime which makes life easier, gives them something to eat and protects them from civil war, commands their temporary support. They are essentially opportunists awaiting the turn of events. Of real adherents on principle to republican, parliamentary, genuinely democratic government, there appear to be very few in Germany today. It is upon this uncertain and precarious basis of public opinion that the existing German government has been created and is maintained.

The revolution in Germany falls thus far into four phases: The first covers the period from October 3, 1918, when Prince Maximilian of Baden was appointed to the chancellorship, to November 9, when the Kaiser abdicated and the provisional government under the chancellorship of Friedrich Ebert was established. Decisive military defeat made it evident that the war was approaching a speedy and disastrous conclusion. A desperate effort was, therefore, made to introduce such liberal measures as would satisfy the demands of the allied powers and conciliate the widespread revolutionary forces in the nation. For the first time in the history of the empire several Socialists were included in the government. Reforms which progressives had been demanding in vain for decades were now instituted over night, and in form the German constitution became as liberal as England's. It was, however, too evidently a deathbed repentance, and as such it came too late. This phase may be called the bourgeois revolution.

A second phase is that of the provisional government under Ebert as chancellor, which extends from November 9, 1918, to the convening of the National Assembly on February 6, 1919. The government was in the hands of the majority Socialists, though there was little change in the personnel of the higher administrative posts. Under the law of November 30, which provided for universal manhood and womanhood suffrage and proportional representation, elections were held for the National Assembly. The government, recognizing its provisional character, and that it possessed no mandate from the people, under-

took merely to hold things together until the assembly should convene.

The third phase extends from the meeting of the assembly to the promulgation of the constitution on August 13. The Assembly at once adopted a provisional constitution, under which Ebert was chosen President of the Republic, and, in turn, appointed Philip Scheidemann chancellor. A ministry made up, with one exception, of majority Socialists and Centrists, was organized, and the government assumed a more regular and legal character. Supported by a substantial majority in the National Assembly, it was now able to take a more positive and constructive attitude toward the problems of reconstruction which were pressing for solution. Scheidemann, who opposed the acceptance of the terms of peace offered by the allies, was forced to retire on June 20, and a new ministry under Gustav Bauer was installed. This change, however, in no wise affected the general character of the government which continued to rest upon the support of the majority Socialist-Centrist coalition in the National Assembly.

With the promulgation of the constitution on August 13, the present phase of the revolution in Germany was ushered in. Ebert took the oath of office under the new and definitive constitution as President of the Republic, and the Bauer ministry was continued. No change in policy or personnel was occasioned by the putting into force of the new fundamental law. The National Assembly, which had thus far functioned as a constituent body, now assumed the rôle of the regular Reichstag. What had previously been provisional now became in every respect regular and legal.¹

Interesting comparisons might be drawn, did space suffice, between the National Assembly which has framed the present constitution of Germany and other constituent bodies. So far as we can judge from the meager reports which have reached us of its deliberations, it was not marked by the lofty ideals, the

¹The new constitution was discussed on first reading late in February and early in March, in commission from March to June, on second and third reading from July 3 to 31, and was adopted by a vote of 262 to 75.

elevated conceptions, the ardent enthusiasm, which characterized the French national assembly of 1789, and even the Frankfurt parliament of 1848. Nor is there evidence of the masterly statesmanship which was so signally displayed by the American constitutional convention of 1787. One figure alone stands out prominently, that of Professor Hugo Preuss, whose individual work the constitution is supposed in large measure to represent. The membership of the assembly was chiefly composed of men who had served in the old Reichstag, politicians of very ordinary and mediocre ability. Nor was the assembly guided or inspired in its work by any general popular discussion. It confronted throughout its deliberations a persistent and deadly indifference on the part of the press and the people. Convened at the quiet little town of Weimar instead of Berlin, in order to remove it from the scene of Spartacist activities, it attracted little attention. Public opinion was concentrated on the questions connected with the peace treaty, the problems of public finance and reconstruction, and the machinations of the monarchical and Spartacist factions. To the work of determining the new framework of government, no one gave special thought.

Under these circumstances it is rather remarkable that so satisfactory an instrument should have been produced. It is in many respects crude; it lacks the polish and form which we generally expect to discover in a national constitution. It shares the fault of many modern constitutions in being too long, and in incorporating too many detailed provisions on relatively unimportant matters. At the same time it leaves many important matters to be determined by subsequent organic laws, which it provides shall be enacted. It contains a considerable number of general statements of fact as well as some doctrinaire and ideological principles. It is in some particulars ambiguous. And it is burdened with a large number of temporary provisions. Nevertheless, when full account is taken of all its defects, it still appears to be a practicable and fairly satisfactory instrument of government.²

² The Constitution, translated by Professors W. B. Munro and A. N. Holcombe of Harvard University, has been published by the World Peace Foundation, Boston, Mass., and can be obtained on application.

The constitution contains a preamble and 181 articles. It is broadly divided into three parts: *first*, composition and functions of government; *second*, fundamental rights and duties of Germans; *third*, transitory and final regulations. Under composition and functions of government, there are seven subdivisions, as follows: the national government (*Reich*)³ and the states; the Reichstag; the President of the Republic and the ministry; the Reichsrath; national legislation; national administration; and the administration of justice. The part dealing with the fundamental rights and duties of Germans falls into divisions on the individual; the social life; religion and religious societies; education and the schools; and the economic life.

The preamble states that "The German people, united in all their branches and inspired by the determination to renew and strengthen their domain in liberty and justice, to preserve peace, both at home and abroad, and to foster social progress, has adopted the following constitution." The principle of popular sovereignty is further emphasized in Article 1, which states that "The German nation (*Reich*) is a republic," and that "Political authority is derived from the people." The constitution was, however, not submitted to a popular referendum for ratification. The territory is stated to consist of the territories of the German states. Annexation of other territory may be effected "by a national law, if their inhabitants, exercising the right of self-determination, shall so desire."

The legislative competence of the national government is determined in a long enumeration of powers. It is considerably more extensive than that exercised by the imperial government under the old constitution. The special rights of the south German states are swept away. Such matters as the relations

³ There is an obvious difficulty in the translation of the German word *Reich*, which is repeatedly used in the new constitution. Its former significance as "Empire" is confusing. To speak of the national republican government of Germany as an empire would give this term a meaning which it has hitherto not carried in English. The terms "domain," "nation" and "national government" have been used as equivalents. The term "commonwealth" has also been suggested, as expressing very nearly the idea which the German word *Reich* embodies.

of church and state, land tenure, theaters and cinematographs, disposal of the dead, and the general control over public instruction are now placed within the field of national legislation. The national government, moreover, is given an unlimited power of taxation and thus freed from the necessity of relying upon matricular contributions from the states. There is thus exemplified the centripetal and unitary tendency so noticeable in all federal governments. The states enjoy the right of legislation in many of the matters included in the enumeration of national powers, so long as the national government does not exercise them, but such state laws are subject to a federal veto. The administration of national laws is generally left in the hands of state officials, as under the old constitution. A republican form of government must exist in every state, the people's representatives being chosen by universal, equal, direct, and secret vote cast by all German citizens, men and women, on the basis of proportional representation. The same system must also be employed in connection with all local elections. Ministerial responsibility to the representative body is also made a fundamental principle of every state government.

A change in the boundaries of states can be effected by ordinary national legislation, when the states directly concerned agree, or when the population affected demands it by referendum and a predominantly national interest requires it. Otherwise a change can only be accomplished by a constitutional amendment. No change in the existing state boundaries may be made, however, within two years from the promulgation of the constitution. In a memorandum submitted by Professor Preuss previous to the meeting of the National Assembly, he urged the breaking up of Prussia into a number of smaller states. This obviously desirable proposal appears to have received little popular support except in the Rhineland. The separation of this province from Prussia and its establishment as an equal member state in the federation is loudly demanded by the people, who are greatly angered by the constitutional provision which postpones for two years the accomplishment of their desire for separation. This provision was doubtless inspired by

the alleged machinations of France in the Rhineland and the Palatinate. It is believed that France is working for the establishment of an independent buffer state, toward which the separation of the Rhineland from Prussia would be the first step.

Under the new constitution the Reichstag remains the representative body for the German nation as a unity. The provision in the old constitution which absolves the members from obedience to instructions from their constituents is retained. They are to be chosen by universal, equal, direct and secret, manhood and womanhood suffrage on the basis of proportional representation. Their term is shortened from five to four years. Annual sessions are required. The President of the Republic may dissolve the body, but only once for the same cause. He is not limited, as was the Emperor, in this power by the necessity of securing the assent of the Bundesrath. New elections must be held within sixty days after dissolution of the Reichstag or the expiration of its constitutional term. The Reichstag is not made the judge of its own elections, but this power is vested in a court of election control consisting of members of the Reichstag, chosen by the body for the entire term, and of the highest national administrative court, appointed by the President of the Republic on nomination of the president of the court. Decisions are to be based upon public oral hearings. Members of the Reichstag enjoy the usual privileges of freedom from arrest and irresponsibility for their votes and the expression of their opinions in connection with the discharge of their functions, except by the body itself.

The provisions regarding the President of the Republic are comparatively brief. He is chosen by the whole German people, and must have completed his thirty-fifth year. Further details concerning his election and qualification are left to subsequent legislation. His term of office, seven years, is what the French would call a *septennat personnel*. If a vacancy occurs, a new president is elected for a new period of seven years and not for the unexpired term. Pending such election, or in case of temporary incapacity, the chancellor performs the functions of the office. The President is not subject to prosecution except with

the sanction of the Reichstag. The provision for his removal is unique. On proposal by two-thirds of the Reichstag he is subject to recall by popular vote. During the period between the vote of the Reichstag and the referendum, he is not permitted to exercise the functions of the office. In case the referendum sustains the President, it counts as a new election for the constitutional term of seven years and automatically entails the dissolution of the Reichstag.

The powers of the President include the representation of the nation in matters of international law, the accrediting and receiving of ambassadors, and the conclusion of treaties and alliances; but declarations of war and the conclusion of peace require national legislation, and alliances and treaties relating to subjects covered by national law require the approval of the Reichstag. The President possesses the power of appointment and removal of officials in the civil and military service, and may delegate this power to other officials. He has supreme command of the military forces of the nation. He may use the armed forces to compel a state to perform its constitutional or legal duties. When public security and order are disturbed and armed intervention becomes necessary, he may suspend the constitutional guaranties of personal freedom, the secrecy of the post, telegraph and telephone services, the right of assembly, the right of association, and the right to the possession of private property; but in these cases his action must be immediately reported to the Reichstag which may revoke them. The pardoning power is vested in the President but general amnesties require a national law.

Provision is made in the constitution for a ministry of which the chancellor is the head. The chancellor is appointed by the President, and the other ministers by the President on nomination of the chancellor. They are removable by the President, the chancellor's consent being necessary to removal as to appointment in the case of subordinate ministers. The model of the Prussian *Staatsministerium*, rather than that of the chancellorship of the imperial constitution in the old régime, is followed in the organization of the ministry. The chancellor does not

occupy the supremely predominant position in the new government which Bismarck created for himself in the old constitution. He is merely *primus inter pares*. He presides at the meetings of the ministry in accordance with an order of business adopted by the body itself and approved by the President. The decisions of the ministry are determined on the basis of a majority vote, the chancellor's vote deciding in case of a tie. He determines the general lines of government policy, within which, however, each minister conducts his department independently. All drafts of law, all matters so prescribed by the constitution or law, and all differences of opinion over questions which concern the functions of several departments are required to be laid before the ministry by its members for discussion and decision.

Ministerial responsibility to the Reichstag is provided in a number of separate and scattered articles. All acts of the President require the countersignature of the chancellor or of a minister who thereby assumes responsibility for the same. It is specifically provided that the chancellor and ministers shall possess the confidence of the Reichstag; any of them must resign upon an explicit resolution of that body withdrawing this confidence. Responsibility is, under the constitution, individual and not collective. The chancellor is made responsible for the general lines of government policy and the other ministers for the conduct of their several departments. It is, however, more than likely that the force of circumstances will develop a conventional collective responsibility, and that an adverse vote of the Reichstag will entail the resignation of the entire ministry. Ministerial solidarity is a corner stone of parliamentary government, and it is scarcely conceivable that Germany's political evolution will follow a different course in this respect than that of other countries which have this system.

The President is not permitted to be a member of the Reichstag, and there is no provision requiring that the ministers shall be members. The Reichstag or any of its committees may, however, require the chancellor or any of the ministers to appear before it. They also have the right of access, on their own demand, to the Reichstag or any of its committees. The only

means of enforcing ministerial responsibility contained in the constitution are the right of *enquête* and penal action which may be considered as a form of impeachment. The Reichstag has the right and, on the demand of one-fifth of its members, the duty to appoint committees of investigation. Administrative and judicial officials are required to supply such committees with all information which they may demand. The Reichstag is further empowered to make a complaint before the national supreme court against the President, the chancellor or the ministers on the ground of their having violated the constitution or a national law. The details of procedure and penalties are left to legislation. If the government under the constitution endures, these provisions regarding ministerial responsibility will doubtless be supplemented by conventions which will give the institution the character it possesses in other parliamentary systems.

The Bundesrath of the old régime is transformed into a Reichsrath, chosen on a different basis and with reduced powers. It remains, however, the representative body of the German states in national legislation and administration. Every state has at least one vote. The larger states are given one vote for each million of inhabitants or fraction thereof equal to the population of the smallest state. But no state shall be represented by more than two-fifths of all votes. The states are represented by members of their respective governments, but one-half of the Prussian votes are to be disposed of by the Prussian provincial assemblies. Thus, while the representation and relative weight of Prussia will be considerably increased, this provision will materially diminish the hegemony which the Prussian government would otherwise possess, and doubtless represents a concession to the demand for a division of Prussia into several separate states. There will be a new apportionment of votes following each decennial census.

Clause 2 of Article 61 of the constitution, which provides that German Austria after its union with the German nation shall be represented in the Reichsrath, and until such union representatives of German Austria shall have a deliberative voice in that body, was held by the Peace Conference to be in conflict

with Article 80 of the peace treaty, which provides that Germany shall acknowledge and respect the independence of Austria and shall agree that Austrian independence is inalienable save with the consent of the League of Nations. A demand that this clause in the German constitution be annulled was at once made by the Peace Conference. It was pointed out by the German government that Article 178 of the constitution contains the explicit statement that "The arrangements provided in the peace treaty signed on June 28, 1919, at Versailles are not affected by the constitution." Moreover, Germany in her counter-proposals to the original peace terms explained, in discussing this point, that she had no desire to violate the Austrian frontier, but that if Austria wanted to bring about a state of unity with Germany, the latter could not obligate herself to oppose the wishes of the "German brothers in Austria," for in that case the right of self-determination of peoples would count against Germany. In the answer of the allied governments to the counter-proposals it was merely recognized that Germany did not want to violate forcibly the Austrian frontier, and the implication was, therefore, clear that everything was left to the free initiative of Austria on the basis of national principles and national self-determination. Germany also complained of the manner in which the question was raised which amounted practically to an ultimatum. The Peace Conference remaining firm, however, in its demand, the German government complied and the clause was annulled.

It is provided that in committees of the Reichsrath no state shall have more than one vote. The ministry is required to summon the Reichsrath on demand of one-third of its members. The Reichsrath, itself, and all of its committees are presided over by a member of the ministry, and ministers have the right of initiative of proposals and of participation in all of its deliberations and in those of its committees. Members of the Reichsrath enjoy the right of appearing and of presenting the views of their state governments before the Reichstag.

The initiative of legislation is vested in the ministry and in the Reichstag, but all measures proposed by the ministry must

have been first submitted to the Reichsrath. If the latter disapproves a proposal, its dissent must be recorded in connection with the submission of the measure to the Reichstag. The Reichsrath, itself, cannot submit legislative proposals to the Reichstag, but the ministry is bound to submit any project of law which the Reichsrath proposes, but may accompany it with an exposition of its own views. The Reichsrath possesses a veto on all measures passed by the Reichstag, which must be exercised within two weeks and confirmed within a further period of two weeks. A measure vetoed by the Reichsrath may be re-passed by the Reichstag by a two-thirds majority.

It will thus be seen that the legislative power of the Reichsrath is very much less than that possessed by the old Bundesrath. The tables have been turned for the two chambers, and from being the predominant partner in legislation the body representing the states sinks to a position even less important than that of the house of lords in England. It is given only a suspensive veto which can be over-ridden whenever there is a strong majority in the popular body. The Bundesrath was the strongest bulwark of autocracy; through it, more than through any other agency, the Kaiser was able to exercise an unlimited power. This change should, therefore, insure the domination of the people's representatives in the German government.

Provision is made in the constitution for both the initiative and referendum. The President has the right of invoking the referendum on any measure which has been enacted by the Reichstag, including those which have been passed over the veto of the Reichsrath. The referendum may also be invoked in another manner. All laws ordinarily come into force on the fourteenth day after publication by the President, but on demand of one-third of the members of the Reichstag this publication may be deferred for two months. If, during this period, one-twentieth of the qualified voters demands it, the measure must be referred to the people. A majority of the qualified voters must participate in the referendum election in order to nullify an act passed by the Reichstag. Any laws declared by the Reichstag and the ministry to be urgent are not subject to post-

ponement and the referendum, and the President alone may invoke the referendum on matters concerning the budget, tax laws and salary payments.

A legislative proposal may be initiated by one-tenth of the qualified voters. A fully elaborated draft bill must be the basis of such a demand. The ministry is required to lay such an initiative proposal before the Reichstag, explaining its own views thereon. If the Reichstag approves, it becomes law; otherwise it is submitted to the popular vote.

Amendments to the constitution follow the procedure of ordinary legislation, a two-thirds majority in a session of the Reichstag in which two-thirds of the members are present being necessary. Constitutional amendments may also be made through the popular initiative, but in this case a majority of all qualified voters is necessary.

The section of the constitution dealing with national administration contains a variety of provisions, many of them rather detailed, relating to the conduct of foreign relations, national defense, colonial administration, the merchant marine, the customs service, the collection of taxes, the formulation of a budget, the auditing of accounts, the borrowing of money, the postal and telegraph service, the socialization and administration of the railroads and waterways, and the control of sea signals. These provisions are, in most cases, of such a nature that they might more properly have been left to statutory enactment.

It will be remembered that the old constitution contained no provision whatever on the subject of the administration of justice, and that the German courts rested entirely upon statute. The present constitution previews a system of regular and of administrative courts, both state and national. The independence of the judiciary is secured by the provision for a life tenure, and that judges may not be removed from office or transferred or retired against their will, except by virtue of a judicial decision and on the grounds and by the forms provided by law. The law may, however, fix an age of retirement. Extraordinary courts are declared to be illegal, and no one may be removed from the jurisdiction of his legal judge. It is made the duty of

administrative courts to protect the individual against the acts of administrative officials.

The fundamental rights of the individual, as defined in the German constitution, are generally those found in other bills of rights, but provisions for exceptions to be prescribed by law accompany some of them. Equality of all Germans before the law, equal civil rights and duties of men and women, the suspension of all public advantages and disadvantages due to birth and rank are fundamental constitutional guaranties. Titles of nobility, and orders and insignia of orders, may no longer be bestowed, and titles now existing are to be accepted only as part of a name. The acceptance of foreign titles and orders is likewise forbidden.

Citizenship, and its acquisition and loss, are matters of national law. Discrimination by a state against citizens of other states is forbidden. The right of freedom of travel, of sojourn, of settlement, the acquisition of real property and the pursuit of every means of livelihood anywhere within the nation are guaranteed. The right of emigration from Germany may be limited only by national law. The right of protection of all citizens as against foreign countries is guaranteed both within and without the national boundaries. There is an explicit prohibition against surrendering any citizen to a foreign government for prosecution or punishment. Racial minorities are protected in the use of their mother tongue for instruction, or in matters of internal administration or the administration of justice.

Deprivation of personal liberty is permitted only in accordance with law, and persons deprived of their liberty are entitled to be informed, at the latest on the following day, by what official and on what grounds their liberty has been impaired. The home of every German is declared to be his place of refuge and cannot be violated, though exceptions may be prescribed by law. No person may be punished for an action, punishable by law, before the act has been committed. The secrecy of the postal, telegraph and telephone services is guaranteed, though the law may prescribe exceptions. Within limits, prescribed by law, the right of freedom of expression of opinion by word, writ-

ing, printing, by picture or in any other way is secured. It is explicitly forbidden to restrict this right on the basis of one's labor or employment. Censorship is forbidden except in the case of moving pictures, or for the purpose of combating obscene and indecent literature, or for the protection of youth at public plays and spectacles.

Social rights guaranteed by the constitution, or in regard to which it is directed that legislation shall be enacted, include compensating families with numerous children; protection of motherhood; equal opportunity for physical, mental and social development for illegitimate as for legitimate children; protection of youth against exploitation, and provision for their adequate moral, mental and physical security; freedom of assembly; freedom of association; liberty and secrecy of the suffrage; the right of petition; the right of communal self-administration; freedom from restrictions, such as those based on sex, in regard to officeholding; a life tenure for state employees; the right of civil officials to freedom of political belief and of association; and the right of the individual to reparation by the state for violations of his rights by an official, against whom the state may, however, bring a counter-action. The social duties of citizens are the acceptance of honorary office; the performance of personal services for the state and community; the duty of military service; and the contribution of a just share to the financial support of all public burdens.

Complete freedom of religious worship and of conscience is guaranteed by the constitution. The enjoyment of civil rights and the performance of civic duties may not in any manner be conditioned upon religious beliefs. No one is to be required to perform church duties or attend church exercises or festivities, or take a religious oath. There is no established church and freedom of organization for religious purposes is secured. Religious societies enjoy the right of freely regulating and administering their affairs, within the limits of the law. Such religious bodies as already enjoy the status of public law corporations, and such others, to be organized, as afford a guaranty of permanency, possess the character of public law corporations, and

are entitled on the basis of the civil tax lists to raise taxes subject to regulations by state law. All state contributions to religious societies shall cease, but all property rights of religious bodies are guaranteed. Sunday and state holidays are protected as days of rest and spiritual development. Provision must be afforded for the performance of religious duties in the army and in public institutions, but no compulsion is to be exercised.

The section of the constitution on education and the schools is manifestly the result of compromise, the majority Socialists and the clerical Centrists having the most widely divergent views on this subject, and particularly on the question of religious instruction in the schools. Art, science and teaching are declared to be free. Education is a function in which nation, state and community coöperate. Compulsory school attendance is required. A basic system of eight years instruction and a system of continuation schools up to the age of eighteen is to be maintained at public expense. For the continuation, or middle and higher school system "the rule for guidance is the multiplicity of life's callings, and the acceptance of a child in a particular school depends upon his qualifications and inclinations, not upon the economic or social position or the religion of his parents." General religious instruction is to be included in all public schools, except those where the communities desire education to be completely secular. Schools of a particular religious faith or *Weltanschauung* may be established in communities where there is a demand for them, subject to regulations to be prescribed by law. State assistance is to be provided to those in poor circumstances for attendance at middle and higher schools, with special attention to those children regarded as adapted for education. Private schools as a substitute for public schools require the approval of the state, which may not be accorded unless the standards of scientific education of the teaching staff and the equipment of the schools are equal to those of the public schools, and they must, furthermore, be organized on a democratic basis. Even then, private schools are to be permitted only when there is no public school in the community of the same faith, or when the educational administration recognizes a particular pedagogical interest.

The control of economic life is based upon the principle of justice, with the object of "assuring a life worth living to all." Freedom of trade and business, and freedom of contract are secured, usury is forbidden, and property is safeguarded and may be taken for public purposes only by due process of law. The right of inheritance is guaranteed, but the state's right to a share in the inheritance is recognized. It is made the duty of the state to regulate the possession and use of land in order to promote the possession by each family of a healthful dwelling. Entails are abolished. The unearned increment in the value of land is to serve the community's interest. The state is to control all natural resources. Complete socialization or public control of private economic enterprises which are adapted to the purpose is definitely placed within the competence of the state by national legislation. The administration of such enterprises may be undertaken by the nation, by a state or by a local community. Labor is placed under the special protection of the nation and a uniform system of labor laws for the entire country is to be enacted. Adherence of Germany to the principle of an international labor code is also asserted. Protection is afforded intellectual labor, and the rights of the discoverer, inventor and artist are secured. The right of organization for the defense and promotion of the interests of labor is absolutely guaranteed. It is made the duty of the national government to establish a comprehensive system of industrial insurance.

The soviet idea of an economic organization paralleling the political organization of the state, and sharing with it the functions of government, finds lodgment in the constitution. It is asserted that "Wage earners and salaried employes are qualified to coöperate on equal terms with employers in the regulation of wage and working conditions as well as in the entire economic development of the productive forces." Legal recognition is given to factory workers' councils which are understood to be organizations of all the workers in single factories. Provision is made for their organization in economic districts under district workers' councils, and there is to be finally a national workers' council. The district workers' councils and the national

workers' council are to meet with representatives of employers in what are called district economic councils and a national economic council, "for the purpose of performing joint economic tasks and coöperating in the execution of the laws of socialization." The various trade groups are to be represented in the district and national economic councils according to their economic and social importance. All drafts of laws of fundamental importance relating to social and economic matters are to be submitted by the national government to the national economic council for its opinion before presentation to the Reichstag. The national economic council has also the right of proposing laws which must be submitted to the Reichstag, and of presenting its views to that body through one of its members. Powers of control and administration in the field of their interests may be conferred upon workers' and economic councils. The building up of the workers' and economic councils, and the definition of their relations and duties is made a definite duty of the national legislative body.

The weal of a nation or even the success of a government is not chiefly determined by the character of the constitution which it may adopt. Very much depends upon other things. The economic and social conditions are fundamental. The national political psychology counts for much. Certainly inherited political traditions, ingrained political habits and methods, the strength and intelligence of a broadly based public opinion are often decisive factors. And the presence or absence of a wise and statesmanlike leadership may often be the conditioning circumstance in determining the line of a nation's progress. We in America are learning the fatuousness of relying upon the principle of "a government of laws and not of men." It is these elements in the situation in Germany which are most difficult to gauge. Political opinion is still largely amorphous, and leadership is yet unestablished. Will a genuine faith in democracy succeed in taking root in the minds and hearts of the German people; or will they dumbly submit to the reestablishment of an autocratic and oligarchical rule; or, maddened and

desperate in the full realization of the utter collapse and failure of all their previously cherished ideals and principles of life, will they fall under the dazzling spell of an incendiary bolshevism? Who can say? And yet the adoption of a constitution which, while far from perfect, still reflects so clear a conception of fundamental needs and a political philosophy so moderate and sane affords distinct hope and encouragement that the German nation may emerge from the present situation a fit member of the sisterhood of democratic states.